

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

LAURA LONGWELL,

Plaintiff,

- against -

MACDONALD COMPANIES, INC.

Defendant.

Docket No. 1:20-cv-881

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Laura Longwell (“Longwell” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant MacDonald Companies, Inc. (“MacDonald Companies” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Fredericksburg, Texas, owned and registered by Longwell. Accordingly, Longwell seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in Texas.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Longwell has a usual place of business at 427 Ellerslie Avenue, Ambler, PA 19002.

6. Upon information and belief, MacDonald Companies is a business corporation duly organized and existing under the laws of the State of Texas, with a place of business at 1625 N. Adams St., Fredericksburg, Texas 78624. Upon information and belief, MacDonald Companies is registered with the Texas Department of Corporations to do business in Texas. At all times material hereto, MacDonald Companies has posted real estate listings on a website at the URL: www.ApartmentsFinder.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Longwell photographed Fredericksburg, Texas (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Longwell is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-150-696.

B. Defendant’s Infringing Activities

10. MacDonald Companies ran the Photograph on a real listing for their Rolling Hills apartments on the Website. See: <https://www.apartmentsfinder.com/Texas/Fredericksburg-Apartments/Rolling-Hills-Apartments-bdh5bzb>. A screenshot of the Photograph on the Website is attached hereto as Exhibit B.

11. MacDonald Companies did not license the Photograph from Plaintiff for the Website, nor did MacDonald Companies have Plaintiff's permission or consent to publish the Photograph on the Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. MacDonald Companies infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. MacDonald Companies is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by MacDonald Companies have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant MacDonald Companies be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
August 24, 2020

LIEBOWITZ LAW FIRM, PLLC
By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305
Valley Stream, NY 11580
Tel: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Laura Longwell